

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2107

Introduced by Assembly Members Gorell and Olsen

February 20, 2014

An act to add and repeal Article 7.5 (commencing with Section 8239.5) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, and to add and repeal Sections 17053.87 and 23687 of the Revenue and Taxation Code, relating to preschool funding, and making an appropriation therefor *funding*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2107, as amended, Gorell. Preschool: privately funded pilot program: tax credits.

Existing law, the Child Care and Development Services Act, administered by the State Department of Education, requires the Superintendent of Public Instruction to administer child care and development programs that offer a full range of services for eligible children from infancy to 13 years of age. ~~The act requires the department to contract with local contracting agencies to provide for alternative payment programs, and authorizes alternative payment programs for services provided in licensed day care centers and family day care homes and for other types of programs that conform to applicable law.~~ *Existing law requires the Superintendent to administer all California state preschool programs, including, but not limited to, part-day and full-day age and developmentally appropriate programs for 3- and 4-year-old children.*

This bill would, until January 1, 2020, authorize the department, as part of a pilot program, to accept monetary contributions made to the California Preschool Investment Fund, which this bill would create, by a person for purposes of preschool education, as provided. ~~The money in the fund would be continuously appropriated to the department, thereby making an appropriation.~~ The bill would require the department to disburse the money to an alternative payment provider. ~~The bill would require the money to be only used to support specified families who reside in, and use, a preschool located in, a county determined by the department to participate in the pilot program, as provided, in the form of a subsidy for preschool services: money in the fund to be used, among other things, to fund state preschools part of the California state preschool program located in one of the 5 participating counties, as provided.~~ The bill would require participating counties to report to the department's Early Education & Support Division regarding the county's assessment of how the pilot program is performing ~~and a list of preschools that were used by families who receive the subsidy.~~ The bill would require any ~~money~~ *moneys* remaining in the fund after January 1, 2020, to be transferred to any other state fund identified by the department that provides funding for increased access to preschool programs for low-income children.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill, under both laws, for taxable years beginning on or after January 1, 2015, and before January 1, 2019, would allow a credit equal to 40% of the amount contributed by the taxpayer during the taxable year to the California Preschool Investment Fund, *as provided*. The bill would limit the aggregate amount of credit allowed under both laws to ~~\$_____ or less~~ *not exceed \$250,000,000* and would require the State Department of Education to establish a procedure for a person to obtain from the department a receipt indicating specified information, including the amount of monetary contributions made, ~~to be retained~~ for purposes of the tax credits allowed under these provisions.

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 7.5 (commencing with Section 8239.5) is added to *Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code*, to read:

Article 7.5 California Preschool Investment Pilot Program

8239.5. The Legislature finds and declares that by providing an additional source of funding, the state can expand the number of preschool slots and the number of subsidies provided to help reduce the waitlist for parents seeking prekindergarten child care assistance.

8239.6. For purposes of this article, the following terms have the following meanings:

(a) "Department" means the State Department of Education.

(b) "Fund" means the California Preschool Investment Fund.

(c) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.

(d) "Program" means the five-county investor funded preschool pilot program.

8239.7. (a) No later than June 1, 2015, a county may apply to the department for consideration of inclusion in the program. *For purposes of this section, a county's local child care and development planning council, established pursuant to Chapter 2.3 (commencing with Section 8499), shall be responsible for making the application authorized pursuant to this section.*

(b) No later than September 1, 2015, the department shall determine, pursuant to subdivision (c), the five counties that shall be included in the program. When making this determination, the department shall ensure that urban, suburban, and rural counties are represented in the program.

(c) The department shall make the determination of which five counties shall be included in the program by giving priority to counties that meet any of the following factors:

(1) The length of the county's waitlist of individuals seeking public child care assistance.

(2) The ability to increase the number of preschool slots available to children in the county.

(3) Whether the county received federal Race to the Top funds, authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), with favorable consideration going to the counties that ~~did not receive~~ *received* the funds.

8239.8. (a) (1) The department may accept monetary contributions made by a person for funding the purposes of this article. The California Preschool Investment Fund is hereby created in the State Treasury to receive any monetary contributions made *pursuant to this article*.

(2) (A) The department shall establish a procedure for a person to make monetary contributions to the fund and for a person to obtain from the department a receipt that indicates the amount of monetary contributions made by that person. The receipt shall also contain, at minimum, the date the monetary contribution was made ~~and, the name of the person who made the contribution. The receipt shall be retained by the person for purposes of an income contribution, the amount of the monetary contribution, and whether the person has or has not been allocated a tax credit—the person may be allowed pursuant to Sections~~ *Section 17053.87 and or* 23687 of the Revenue and Taxation Code.

(B) *Subject to the annual cap as provided in subdivision (f) of Sections 17053.87 and 23687 of the Revenue and Taxation Code, the department shall allocate credits to contributors on a first come, first served basis.*

(C) *The department shall notify the Franchise Tax Board of the credits allocated on at least a monthly basis, and the Franchise Tax Board and the department shall place this information on their respective Internet Web sites together with information as to the amount of remaining credits, at least every calendar quarter, including information as to whether the cap described in subdivision (f) of Sections 17053.87 and 23687 of the Revenue and Taxation Code may be reached by the end of the calendar quarter.*

~~(3) Notwithstanding Section 13340 of the Government Code, the money in the fund are continuously appropriated, without regard to fiscal year, to the department for the purposes of this article.~~

(3) *Moneys in the fund shall be allocated as follows:*

(A) *First, moneys in the fund shall be transferred to the General Fund in an amount equal to the aggregate amount of certified*

1 *credits allowed pursuant to Sections 17053.87 and 23687 of the*
2 *Revenue and Taxation Code for the taxable year.*

3 *(B) Second, upon appropriation:*

4 *(i) To the Franchise Tax Board and the department for*
5 *reimbursement of all administrative costs incurred by those*
6 *agencies in connection with their duties under this article.*

7 *(ii) To the department for the purposes of this article, as*
8 *provided in subdivision (b).*

9 ~~*(b) The department shall annually disburse the funds to an*~~
10 ~~*alternative payment provider. The alternative payment provider*~~
11 ~~*shall disburse the money pursuant to Article 3 (commencing with*~~
12 ~~*Section 8220).*~~

13 ~~*(b) The money appropriated to the department pursuant to*~~
14 ~~*clause (ii) of subparagraph (B) of paragraph (3) of subdivision*~~
15 ~~*(a) shall be used to fund the California state preschool programs,*~~
16 ~~*pursuant to Article 7 (commencing with 8235). The money shall*~~
17 ~~*be only only be used to support families who reside in, and use a*~~
18 ~~*preschool state preschools located in, in one of the five counties*~~
19 ~~*participating in the program, in the form of a subsidy for preschool*~~
20 ~~*services. Notwithstanding the eligibility criteria established*~~
21 ~~*pursuant to Section 8263, priority shall be given to families who*~~
22 ~~*meet all of the following conditions: program.*~~

23 ~~*(1) The family has at least one child who is four years of age.*~~

24 ~~*(2) The family has at least one working parent.*~~

25 ~~*(3) The family's adjusted monthly income is set at or below 70*~~
26 ~~*percent of the state median income, adjusted for family size, and*~~
27 ~~*adjusted annually.*~~

28 8239.9. A county selected to participate in the program pursuant
29 to Section 8239.7 shall annually report to the department's Early
30 Education & Support Division. The report shall contain the
31 county's assessment of how the program is performing and a list
32 of preschools that were used by families who receive the subsidy
33 pursuant to Section 8239.8.

34 8239.10. (a) This article shall remain in effect only until
35 January 1, 2020, and as of that date is repealed, unless a later
36 enacted statute, that is enacted before January 1, 2020, deletes or
37 extends that date.

38 (b) Any moneys remaining in the fund as of January 1, 2020,
39 shall be transferred to any other state fund identified by the

1 department that provides funding for increased access to preschool
2 programs for low-income children.

3 SEC. 2. Section 17053.87 is added to the Revenue and Taxation
4 Code, to read:

5 17053.87. (a) For taxable years beginning on or after January
6 1, 2015, and before January 1, 2019, there shall be allowed as a
7 credit against the “net tax,” as defined in Section 17039, an amount
8 equal to 40 percent of the amount contributed by the taxpayer
9 during the taxable year to the California Preschool Investment
10 Fund, created by Section 8239.8 of the Education Code.

11 (b) A credit shall only be allowed if the taxpayer has received
12 a receipt from the State Department of Education pursuant to
13 Section 8239.8 of the Education Code that indicates that the
14 taxpayer has made a contribution to the California Preschool
15 Investment Fund *and that a credit would be allowed under this*
16 *section*. The taxpayer shall provide the receipt upon request to the
17 Franchise Tax Board.

18 (c) (1) In the case where the credit allowed by this section
19 exceeds the “net tax,” the excess may be carried over to reduce
20 the “net tax” in the following year, and succeeding four years if
21 necessary, until the credit is exhausted.

22 (2) A deduction otherwise allowed under this part for any
23 amount contributed by the taxpayer upon which the credit is based
24 shall be reduced by the amount of the credit allowed in subdivision
25 (a).

26 (d) Credit under this section shall be allowed only for credits
27 claimed on a timely filed original return of the taxpayer.

28 (e) (1) The Franchise Tax Board may prescribe rules, guidelines,
29 or procedures necessary or appropriate to carry out the purposes
30 of this section.

31 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code does not apply to
33 any standard, criterion, procedure, determination, rule, notice, or
34 guideline established or issued by the Franchise Tax Board
35 pursuant to this section.

36 (f) The aggregate amount of credit that may be allowed pursuant
37 to this section and Section 23687 shall not exceed two
38 *hundred fifty million* dollars—(~~\$~~) (*\$250,000,000*) *for each*
39 *calendar year*.

40 (g) This section shall be repealed on December 1, 2019.

SEC. 3. Section 23687 is added to the Revenue and Taxation Code, to read:

23687. (a) For taxable years beginning on or after January 1, 2015, and before January 1, 2019, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount equal to 40 percent of the amount contributed by the taxpayer during the taxable year to the California Preschool Investment Fund, created by Section 8239.8 of the Education Code.

(b) A credit shall only be allowed if the taxpayer has received a receipt from the State Department of Education pursuant to Section 8239.8 of the Education Code that indicates that the taxpayer has made a contribution to the California Preschool Investment Fund *and that a credit would be allowed under this section*. The taxpayer shall provide the receipt upon request to the Franchise Tax Board.

(c) (1) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding four years if necessary, until the credit is exhausted.

(2) A deduction otherwise allowed under this part for any amount contributed by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed in subdivision (a).

(d) Credit under this section shall be allowed only for credits claimed on a timely filed original return of the taxpayer.

(e) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(f) The aggregate amount of credit that may be allowed pursuant to this section and Section 17053.87 shall not exceed two *hundred fifty million* dollars ~~(\$250,000,000)~~ *for each calendar year*.

(g) This section shall be repealed on December 1, 2019.

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